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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fourth session

SUMMARY RECORD OF THE 69th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 21 November 2000, at 3 p.m.

Chairperson: Mrs. BONOAN-DANDAN

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GE.00-46212 (E)

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Second periodic report of Yugoslavia (E/1990/6/Add.22) (continued)

Draft preliminary guidelines for the Federal Republic of Yugoslavia and a revised list of issues (document distributed in English only)

1. The CHAIRPERSON, having noted that representatives of the Permanent Mission of the Federal Republic of Yugoslavia were present at the proceedings, introduced a document containing draft preliminary guidelines and a revised list of issues, a copy of which had been transmitted to the Permanent Mission for information. Its final status had still to be decided. Part 1 consisted of guidance addressed to the State party and might eventually take the form of a letter, while Part 2 was a revised list of issues.

2. On a positive note, she had been informed by a representative of the Permanent Mission that the Federal Government and the government agencies responsible for monitoring the State party's international treaty obligations would remain in place, and that the forthcoming elections only concerned Serbia. The State party welcomed the current exercise, and in particular the Committee's recommendations concerning the establishment of a national human rights plan of action and institution; and was especially enthusiastic about the possibility of a mission being sent to the country.

3. She suggested that the Committee should commence with a preliminary consideration of the document as a whole, before finalizing it during the third week of the session. Detailed drafting proposals should be avoided at the current stage.

4. Mr. KOUZNETSOV (Country Rapporteur) endorsed the Chairperson's proposal and suggested moving directly to the list of issues.

5. Mr. SADI said he wondered whether the Committee was mandated by its rules of procedure or the Covenant to proceed as proposed, or whether it was simply improvising. A number of urgent issues that could have been included, such as the facilitation of self-determination and the question of the return of refugees to their homes, had been omitted from the list, which, as it stood, was too selective.

6. The CHAIRPERSON said that the present exercise was unprecedented: the Committee's problem was that it was unaware of the current situation in the State party. It thus had no choice but to proceed on the basis of the existing report (E/1990/6/Add.22). The object of the exercise was merely to provide some general, preliminary guidance to the State party, to serve as a point of departure.

7. Mr. HUNT, pointing out, as the drafter of Part 1, that the document was not definitive, said he was open to suggestions for additions to Part 1, provided it was borne in mind that the list was not intended to be comprehensive.

8. The CHAIRPERSON asked Mr. Sadi to submit his proposals to the secretariat in writing.

9. Mr. ANTANOVICH, endorsing Mr. Sadi's remarks, said that the document was not intended as a replacement for the usual dialogue conducted with the State party or the concluding observations normally issued, but as a response to unusual circumstances. Whether it eventually took the form of a statement or some other form, the document must be accompanied by a covering letter emphasizing the unusual nature of the situation and expressing the Committee's willingness to engage in constructive dialogue with the State party.

10. Mr. MARCHÁN ROMERO said that the procedural basis for the document was the note verbale addressed to the Committee by the State party, and that it should therefore take the form of a letter of reply to the note verbale. That would obviate the need to decide what title to give to a document for which there was no precedent.

11. Mr. CEVILLE recalled Mr. Rattray's reminder that the Committee already had before it a formally submitted report whose existence could not be denied and which it was therefore duty-bound to consider. In his view, the legal basis for the current exercise was to be found in rule 63 (2) of the Committee's rules of procedure. With a view to providing the maximum assistance to the State party in complying with the Covenant, the procedure adopted should be as flexible as possible.

12. Mrs. JIMÉNEZ BUTRAGUEÑO proposed that the communication should consist of an introduction in the form of a letter, followed by the revised list of issues (currently Part 2) and suggestions and recommendations (currently Part 1), in that order.

13. The CHAIRPERSON urged the Committee to examine the substance of the document before considering what form it should take.

Part 1: Preliminary guidance to the State party

14. Mr. SADI said he wondered whether it would not be useful to mention that the exceptional circumstances resulted from the fact that the State party had just emerged from an armed conflict.

15. The CHAIRPERSON said that a sentence to that effect would be included in the covering letter.

16. Mr. RIEDEL, speaking on a point of order, urged the Committee to avoid a line-by-line discussion of the document.

17. Mr. AHMED suggested that a reference to article 2, paragraph 1, of the Covenant relating to international assistance and cooperation, especially of an economic nature, should be included in paragraph 4 of Part 1.

18. Mr. WIMER ZAMBRANO, taking up a comment by Mr. ANTANOVICH, said that each of the first four paragraphs was concerned with encouraging the State party to seek technical advice and assistance from United Nations specialized agencies. The effect was somewhat repetitious, particularly as Yugoslavia certainly possessed sufficient administrators and technicians to perform at least some of the functions concerned without such assistance. He suggested compressing the first four paragraphs into one or two paragraphs.

19. Mr. TEXIER endorsed Mr. Ahmed's proposal to include a reference to article 2, paragraph 1, of the Covenant. The most appropriate place for such a reference would be at the very beginning of the text, preceding the paragraphs dealing with precisely those matters addressed in article 2.

20. Mr. SADI said that paragraphs 1, 2 and 3 should be combined, since they were all concerned with the seeking of technical advice and assistance from the Office of the High Commissioner for Human Rights.

21. Mr. CEVILLE suggested that the introductory paragraph would be improved by a reference to the Committee's General Comment No. 1, particularly in respect of reporting on health and education matters.

22. Mrs. JIMÉNEZ BUTRAGUEÑO said it would be inadvisable to merge paragraphs 2 and 3. Although both concerned technical advice and assistance from the Office of the High Commissioner, their purposes were quite different.

23. Mr. TEXIER said that the proposed reference to article 2, paragraph 1, of the Covenant would be further strengthened by a reference to General Comment No. 3, which dealt in specific terms with the conditions under which States parties might seek international assistance and cooperation in fulfilling their obligations under the Covenant.

Part 2: Revised list of issues

24. The CHAIRPERSON said that Part 2 of the proposed document contained a revised list of issues intended to assist the State party in the preparation of an updated periodic report.

25. Mrs. JIMÉNEZ BUTRAGUEÑO said that, in paragraph 3, the State party should also be requested to provide specific examples of jurisprudence relating to direct invocation of the Covenant in the courts of Yugoslavia.

26. Mr. TEXIER said he was satisfied with the text, subject to the following amendments: a reference to General Comment No. 9 in paragraph 5; the merging of paragraphs 8 and 9 to avoid repetition; and, in paragraph 22, the inclusion of "and all law enforcement officials" after the reference to "judges, magistrates and lawyers".

27. Mr. ATANGANA said that since paragraph 7 referred to the preparation of the second periodic report, it might be better to place it in Part 1 of the document.

28. Mrs. JIMÉNEZ BUTRAGUEÑO suggested including health workers in the list in paragraph 22.

29. The CHAIRPERSON said that care should be taken not to include too many categories in the list - the intention was that the list of issues should be drafted in very general terms.

30. Mr. CEVILLE suggested that paragraphs 3 and 5 might be combined, since both concerned the incorporation of international human rights instruments in the State party's internal legal order. The same applied to paragraphs 8 and 9, both of which were concerned with self-determination.

31. Mr. ANTANOVICH said that since, according to the report, two thirds of the workforce was unemployed, the Government should be requested to provide information on measures taken to promote employment.

32. Mr. PILLAY said it would be inappropriate to transfer paragraph 7 to Part 1 of the document, since the term "present report" in fact meant the forthcoming updated report. In paragraph 10, he proposed deleting the words "as enshrined in the Covenant" after "enjoyment of economic, social and cultural rights". A request for information on the extent of poverty in Yugoslavia and the measures being taken to deal with it should also be included. Lastly, paragraph 20 should be amended to read: "Please provide statistical information on expenditures in respect of all levels of education in Yugoslavia".

33. The CHAIRPERSON said she had purposely suggested deleting the reference to poverty, as it was unlikely that the Government would be able to provide exhaustive statistics on poverty in the current dire circumstances. However, the Committee might consider requesting outline statistics on the extent of poverty and encouraging the Government to establish a poverty line. She reiterated that the current list of issues was not intended to be exhaustive, but rather as a general indication of the issues the Committee felt should be addressed in the forthcoming updated report. Once that report had been submitted, the Committee would produce a new list of issues following the standard format.

34. Mr. WIMER ZAMBRANO, referring to paragraph 18, said it was invidious to request information on homelessness and, in particular, housing construction, in view of the disastrous housing policies of the communist era and the more recent devastation caused by the NATO bombing campaign. He proposed either deleting the paragraph or simply requesting the Government to describe the overall problem.

35. The CHAIRPERSON suggested combining that concern and Mr. Pillay's in a new paragraph requesting general information on poverty and homelessness.

36. Mr. SADI suggested deleting the words "over the last few years" from paragraph 23, since measures taken in that period were not the concern of the new Government. He also proposed simplifying paragraph 14 to read: "Please describe how the right to strike is being protected". Similarly, paragraph 5 should be amended to read: "Please describe the measures, legislative or otherwise, being undertaken to ...".

37. The CHAIRPERSON said that, working with the secretariat, she could now begin the process of redrafting the revised list of issues and recommendations and the covering letter. She intended to engage in extensive informal consultations with Committee members with a view to producing two final texts for adoption in a closed meeting during the third week of the session. If she heard no objection, she would take it that the Committee wished to proceed in that way.

38. It was so decided.

39. Mr. KOUZNETSOV (Country Rapporteur) thanked Mr. Hunt for drafting the preliminary text, and members of the Committee for their assistance to the Chairperson and himself. Through exemplary teamwork, initial disagreements had been overcome and consensus reached.

40. The CHAIRPERSON thanked the representatives of the Permanent Mission of the Federal Republic of Yugoslavia for attending the meeting, and expressed the hope that the experience had proved fruitful.

The meeting rose at 4.25 p.m.